



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 28, 1998

Collete Hoover, Treasurer
Sixth Congressional District Republican Party
3309 Lassiter Mill Road
Asheboro, NC 27203

RE: MUR 4797
Sixth Congressional District Republican Party
and Collette Hoover, as Treasurer

Dear Ms. Hoover:

On August 18, 1998, the Federal Election Commission found that there is reason to believe that the Sixth Congressional District Republican Party ("Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit responses to the enclosed questions and documents' request within 30 days of receipt of this letter. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

Collete Hoover, Treasurer
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission. This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Xavier McDonnell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures

Factual and Legal Analysis
Questions and Documents Request
Procedures
Designation of Counsel Form

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS Sixth Congressional District Republican Party MUR: 4797
and Collette Hoover, as treasurer

I. GENERATION OF MATTER

This matter was generated by the Commission in the normal course of carrying out its supervisory duties. *See* 2 U.S.C. § 437g(a)(2). It involves the Sixth Congressional District Republican Party's (or "6th District's") receipt of \$32,425 in transfers from an unregistered organization: the Randolph County Republican Party Executive Committee ("Randolph County" or "Randolph County Committee"). The 6th District has not disclosed and/or demonstrated that it had made any refunds or transfers of the impermissible funds.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations provide that transfers of funds may be made without limit on amount between or among a state party committee and/or any subordinate party committee whether or not they are "political committees" and whether or not such committees are affiliated. 2 U.S.C. § 441a(a)(4), 11 C.F.R. §§ 102.6(a)(1)(ii) and 110.3(c)(1). However, the funds transferred must be in compliance with the Act. *See* 11 C.F.R. §§102.6(a)(1)(iv) and 102.5.

A state or local party organization that makes contributions and expenditures must either establish a separate account into which only funds subject to the prohibitions and limitations of the Act shall be made and from which all contributions and expenditures shall be made or demonstrate through a reasonable accounting method that whenever such organization makes a contribution or expenditure, it has received sufficient funds subject to the prohibitions of and

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limitations of the Act to make such contributions or expenditures. 11 C.F.R. § 102.5(b)(1). These rules ensure compliance with the contribution limitations at 2 U.S.C. § 441a, which provides, *inter alia*, that no person or multicandidate committee shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits any political committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a)(1)(C) and (f). Under North Carolina law, individuals and non-party political committees may contribute up to \$4,000 per election. *See* General Statutes of North Carolina ("GSNC") §§ 163-278.¹

Political committees are required to report all expenditures and disbursements, including operating expenses. 2 U.S.C. § 434(b)(4); 11 C.F.R. § 104.3(b). The costs for communications made on behalf of clearly identified federal candidates must be reported and attributed in accordance with 11 C.F.R. § 106.1(a).

B. Factual Background

The 6th District, a registered party committee, received a \$10,000 transfer on or about October 16, 1996,² and a \$22,425 transfer on October 22, 1996. The transfers, totaling \$32,425 were derived from the Randolph County Committee, an unregistered organization. According to the 6th District's 30 day post general election report, these funds from Randolph County, totaling \$32,425, were the only funds received from October 15 through November 25, 1996.

¹ Contributions by corporations and labor unions are prohibited by North Carolina law.

² Although the 6th District reported receiving the \$10,000 transfer on October 15, 1996, the Randolph County Committee reported that it did not give the \$10,000 until October 16, 1996. Thus, at this point questions remain as to the actual receipt date of the \$10,000.

The 6th District's disclosure reports also indicate that on October 17, 1996, just one day after receiving the \$10,000 transfer from Randolph County, it spent \$10,000 for "radio advertising." In addition, the 6th District reports making two expenditures totaling \$22,376 for "voter mailings" on October 23, 1996, just one day after receiving the \$22,425 from Randolph County. These three disbursements by the 6th District, totaling \$32,376, constituted all but \$3,000 in disbursements made from October 15 through November 25, 1996. In addition, disclosure reports filed by the 6th District during 1996 do not disclose any disbursements for expenses such as rent, utilities or staff salary.

Upon reviewing the 6th District's 1996 reports, the Commission's Reports Analysis Division ("RAD") sent requests for information on June 25 and July 11, 1997. RAD informed the 6th District that since the Randolph County Committee was not a registered political committee, the receipt of funds from that committee raised questions. RAD advised the 6th District to take steps to ensure that the funds received from Randolph County were permissible, and if they were not, to immediately transfer such funds from its federal account. RAD also questioned the 6th District about its lack of ordinary operating expenses, i.e., rent, utilities and salary.

RAD spoke several times with the 6th District's treasurer, who indicated that she would contact Randolph County's attorney regarding the source of the \$32,425 in transfers. However, the 6th District's treasurer failed to provide any further information about the source of the funds. In its 1997 year end report, the 6th District reported a debt of \$32,425 to the Randolph County Committee. To date, the 6th District has not demonstrated that it has repaid or transferred out the impermissible amount.

III. ANALYSIS

The 6th District is a registered political committee that appears to only maintain a federal account in accordance with Section 102.5(a)(1)(ii). It received \$32,425 in transfers from the Randolph County Committee, an unregistered organization. The Randolph County Committee appears to accept funds deemed impermissible under the Act; specifically, contributions of up to \$4,000 per election pursuant to North Carolina law. The 6th District's most recent reports disclose a debt to Randolph County of the entire \$32,425, which suggests an inability to show that the funds meet the permissibility requirements of Section 102.5. As the transfers provided by the Randolph County Committee appear to have come from impermissible sources, there is reason to believe that the 6th District and Collette Hoover, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4797

**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

TO: Collette Hoover
Sixth Congressional District Republican Party
3309 Lassiter Mill Road
Asheboro, North Carolina 27203

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1996 to present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondents in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

QUESTIONS AND DOCUMENT REQUESTS

1. Disclosure reports indicate that you received \$10,000 from the Randolph County Republican Party Executive Committee ("Randolph County Committee") on October 16, 1996. With respect to such transfer/contribution:

- a. State the date on which you received such funds;
- b. State whether the funds were transferred pursuant to any request made by you;
- c. State the purpose of such transfer/contribution;
- d. Identify all persons involved in giving and receiving such funds;

e. Identify and produce all documents related to the transfer of such funds, including but not limited to checks, memos, correspondence, etc.

2. Disclosure reports indicate that you received \$22,425 from the Randolph County Republican Party on October 22, 1996. With respect to such transfer/contribution:

a. State whether the funds were transferred pursuant to any request made by you;

b. State the purpose of such transfer/contribution;

c. Identify all persons involved in giving and receiving such funds;

d. Identify and produce all documents related to the transfer of such funds, including but not limited to checks, memos, correspondence, etc.

3. State whether you had any discussion with the Randolph County Committee regarding the use of the funds referenced above in questions 1 and 2. If so;

a. State when you had any such discussions;

b. Identify all persons involved in such discussions;

c. State the substance of such discussions and indicate whether there was any discussion about what the funds might be used for, i.e., state or federal elections, advertising, voter mailings, get-out-the-vote activity, and whether the Randolph County Committee provided you with any instructions, or made any request or suggestion, about the use of the funds;

d. Identify and produce all documents related to such discussions, including but not limited to memos, correspondence, etc.

4. Disclosure reports indicate that you made a \$10,000 payment/expenditure to Blackwater Communications on October 17, 1996. With respect to such payment/expenditure:

a. State what was purchased with that payment/expenditure;

b. State whether the item(s) or services purchased with the \$10,000 referenced any candidates for federal or state office, and, if so, identify all such candidates;

c. State whether you had any discussions with the Randolph County Committee about the payment/expenditure, and if so, state the substance of such discussions and indicate whether there was any discussion about the use of the payment/expenditure, i.e., state or federal elections, advertising, voter mailings, get-out-the-vote activity;

d. State whether the Randolph County Committee gave you any instructions, or made any request or suggestion about the \$10,000 payment/expenditure, including but not limited to a suggestion about what vendor to use, the type of goods or services to purchase, whether the funds should be used on state or federal elections, advertising, voter mailings, get-out-the-vote activity;

e. Identify all persons from your committee involved in reviewing, approving or making suggestions regarding the goods or services purchased;

f. Identify all persons from Blackwater Communications involved in providing any goods or services in exchange for the \$10,000;

g. Identify and produce all documents related to the expenditure, including but not limited to scripts, tapes, memos, notes, correspondence, information stored on or created by computer.

5. Disclosure reports indicate that you made a \$22,376 payment/expenditure to Advantage Mailing on October 23, 1996. With respect to such payment/expenditure:

a. State what was purchased with such payment/expenditure;

b. State whether the item(s) or services purchased referenced any candidates for federal or state office, and, if so, identify all such candidates;

c. State whether you had any discussions with the Randolph County Committee regarding such payment, and if so, state the substance of any such discussions and indicate whether there was any discussion about the use of the payment/expenditure, i.e., state or federal elections, advertising, voter mailings, get-out-the-vote activity;

d. State whether the Randolph County Committee gave you any instructions, or made any request or suggestion, about the \$22,376 payment, including but not limited to any suggestion about what vendor to use, the type of goods or services that might be purchased, whether the funds should be used on state or federal elections, advertising, voter mailings, get-out-the-vote activity;

e. Identify all persons from your committee involved in reviewing, approving or making suggestions regarding the goods or services purchased;

f. Identify all persons from Advantage Mailing involved in providing any goods or services to you in exchange for the \$23,376;

g. Identify and produce all documents related to the payment, including but not limited to scripts, tapes, memos, notes, correspondence, information stored on or created by computer.

6. State the number of bank accounts that you have and identify all such accounts (provide the name and address/location of the bank in which such account is held, the account number and the name of the holder of the account). In addition, indicate whether you have an account separate from your federal account that is used for contributions received for candidates running for state or local office and for expenditures made for such candidates.

7. State whether you occupied any office space during 1996. If so, state the address of such office space and the terms of your occupancy, and provide: (a) the cost or value of such space; (b) the amount of space occupied; (c) the amount which you paid for such space; and (d) whether utilities were included in the amount paid.

8. State whether you retained any staff during 1996. If so, identify such persons and provide: (a) the terms of their employment; (b) the cost or value of their services; (c) the amount which you paid for such services.

9. State whether you had any expenses during 1996 (other than any listed in response to questions 7 and 8, i.e., utilities, office supplies, telephone, transportation costs). If so, (a) itemize all such expenses, (b) state whether they were paid for by you (and if so, provide all documents related to such payments) and (c) identify any person or organization that paid any such expenses on your behalf.